

01- R-1258

Entered - 4-17-01 - sb
CL 01L0239 - ALEXIS HOLMES

CLAIM OF: **TABITHA PULLIN**
Through her Attorney
David A. Sleppy, Esq.
Cathey & Strain
649 Irvin Street
P.O. Box 689
Cornelia, Georgia 30531

For damages sustained as a result of a copyright infringement during
the summer of 1985.

THIS ADVERSE REPORT IS APPROVED

BY: *Rosalind Rubens Newell*
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

ADVERSE BY
CITY COUNCIL SEP 04 2001

ADVERSE REPORT

PUBLIC SAFETY &

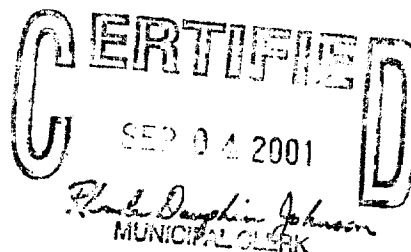
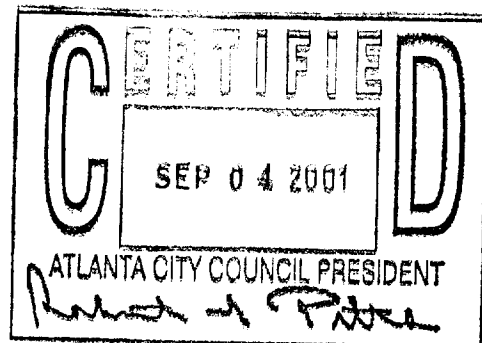
LEGAL ADMINISTRATION COMMITTEE

DATE SEP 04 2001

CHAIR *C. T. Barlow*

Cepal

Clara Haskins





OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103

September 12, 2001

David A. Sleppy, Esq.
Cathey & Strain
649 Irvin Street
P.O. Box 689
Cornelia, Georgia 30531

01-R-1258

RE: Tabitha Pullin

Dear Attorney Sleppy:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on September 04, 2001. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the City Attorney's Office/Claims Division at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0239

Date: 8/1/01

Claimant /Victim TABITHA PULLIN
BY: (Atty) Cathey & Strain 649 Irvin Street
Address: P.O. 689 Cornelia, Georgia 30531
Subrogation: Claim for Property damage \$ Unspecified Bodily Injury \$
Date of Notice: 4/16/01 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 Ante Litem (6 Mo.)
Date of Occurrence Summer 1985 Place: Camp Summer Fun and Fitness
Department PRCA Division: Parks
Employee involved Karl McCray Disciplinary Action: None taken

NATURE OF CLAIM: The claimant while attending the City of Atlanta's "Camp Summer Fun and Fitness" program in 1985 entered, and won a City sponsored contest for ideas to rename their summer camp program. A portion of the claimant's idea "You're My Best Friend," was used in conjunction with ideas from other contestants. In January 1993 the City legally changed the name of its summer camp program to "Camp Best Friends" when it filed a 501(c) (3) to incorporate "Camp Best Friend" as a nonprofit organization. On January 19, 1993 the City gave public notice in the Fulton County Daily Report's classified section, of its intent to incorporate the summer camp program. The claimant filed a copyright application in 1998 however, the claimant did not received her copyright until May 1999. Therefore, the claimant's contest entry was deemed a generic phrase that was considered public domain when the City incorporated its new summer camp program name. Further, the claimant has failed to comply with the requirement of notice as set forth in O.C.G.A. § 36-33-5, the six month limitations expired prior to receipt of the claim.

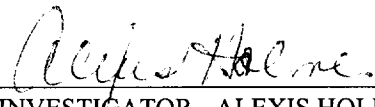
INVESTIGATION:

Statements: City employee X Claimant Other X Written X Oral X
Pictures X Diagrams Reports: Police Dept Report Other
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver

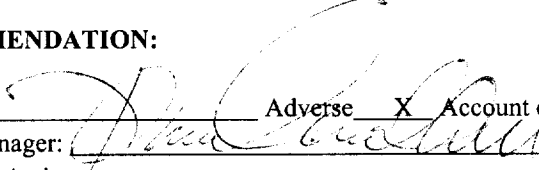
BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial
Improper Notice X More than Six Months X Other Damages reasonable
City not involved Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,


INVESTIGATOR - ALEXIS HOLMES

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01
Claims Manager:  Concur/date 08-01-01
Committee Action: Council Action
FORM 23-61

CATHEY & STRAIN
ATTORNEYS AT LAW
6 IRVIN STREET
P. O. BOX 689
CORNELIA, GEORGIA 30531

DENNIS T. CATHEY
EDWARD E. STRAIN, III
DAVID A. SLEPPY

TELEPHONE 706-778-2601
TELECOPIER 706-776-2899
email: casl@alltel.net

Holmes
04/16/01
[Signature]

March 23, 2001

ENTERED - 4-17-01 - SB
01L0239 - ALEXIS HOLMES

Ms. Renee M. Shepherd
Associate City Attorney
Suite 4100
City Hall Tower
68 Mitchell Street, S.W.
Atlanta, GA 30335-0332

RE: "My Best Friend" and "Camp Best Friends"

Dear Renee:

It was a pleasure speaking with you recently about the above-referenced matter. As we discussed, I have enclosed copies of the relevant correspondence and other documentation which will better help you to understand Ms. Pullin's problem.

Briefly, the facts are as follows: During the summer of 1985 Tabitha Pullin (who was approximately 12 years old) attended a summer camp sponsored by the City of Atlanta called "Summer Fun and Fitness" which was a summer camp program for young people. During her attendance at the camp, she created a project entitled "You're My Best Friend". This project won first place in the summer camp contest. Ms. Pullin is in possession of a duplicate of the project which was essentially a four-sided, translucent project that involved her art work, including a picture of a tree with the title "You're My Best Friend".

As a result of her poem-art collage, Ms. Pullin won an award and received limited recognition from the City of Atlanta by way of correspondence and lunch with the mayor. (Copies of the relevant documentation and correspondence are attached.) What occurred next is what is troubling Ms. Pullin. Apparently, beginning in 1986, the name of "Camp Summer Fun and Fitness" was changed to "Camp Best Friends" as a direct result of Ms. Pullin's poem-art collage. As you can see from the enclosed, "Camp Best Friends" was promoted and marketed by the City of Atlanta with Ms. Pullin's "Best Friends" idea as its title. Additionally, the City of Atlanta solicited corporate sponsorship and contributions for "Camp Best Friends".

Ms. Renee M. Shepherd

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March 23, 2001

Ms. Pullin finished her schooling, went away to college and got her degree. Eventually she discovered that the City of Atlanta had been using her idea for many years to market and promote "Camp Best Friends" for young people. I'm assuming that "Camp Best Friends" is a profit-making activity for the City of Atlanta. The City of Atlanta also has solicited corporate sponsorship and other contributions towards "Camp Best Friends". Ms. Pullin has since filed for a copyright of her poem-art.

Ms. Pullin feels that she did not receive proper recognition and/or compensation by the City of Atlanta for the appropriation of her idea. She was a minor at the time and the City of Atlanta never received either her permission or the permission of her parents to use her idea in the naming and promotion of its summer camp. Ms. Pullin has asked me to look into whether or not she has any recourse in this regard. I thought the best thing to do would be to write a letter to the City Attorney's office regarding this to see if we could sit down and discuss this in person or at a mediation. Insofar as you were the attorney "on call" when I called the City Attorney's office to discuss this, I am writing to you.

Thank you for your time and consideration of this matter. Please give me a call to discuss this further after you have had a chance to review and evaluate the enclosed.

Yours very truly,


David A. Sleppy

DAS/kmc
Enclosures

cc: Mr. Harold Pullin
Ms. Tabitha Pullin

01-R-1258

RCS# 3092
9/04/01
3:36 PM

Atlanta City Council

Regular Session

MULTIPLE
1258

Public Safety Consent Agenda except #15

ADOPT

YEAS: 15
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 0

Y McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	Y Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

MULTIPLE